

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

FILED
JAN 04 2013
Clerk, U.S. District Court
District Of Montana
Missoula

RONALD GARY LOOMAN)
)
Plaintiff,)
v.)
)
STATE OF MONTANA;)
MONTANA DEPARTMENT)
OF CORRECTIONS; TROY)
McQUEARY, individually;)
INTERNATIONAL UNION OF)
OPERATING ENGINEERS)
NATIONAL TRAINING FUND;)
DAVE LIEDLE, individually; and)
DOES 3-100,)
)
Defendants.)
_____)

CV 11-143-M-DWM-JCL

ORDER

Ronald Looman is a prisoner incarcerated at the Montana State Prison in Deer Lodge, Montana. He brought several claims against the defendants after he was injured while working on a truck in the prison's Equipment Maintenance Shop.

Defendant Dave Liedle moves to dismiss under Federal Rules of Civil Procedure 4(m) and 12(b)(5). Judge Lynch issued Findings and Recommendations recommending that Liedle be dismissed. Looman does not object to that

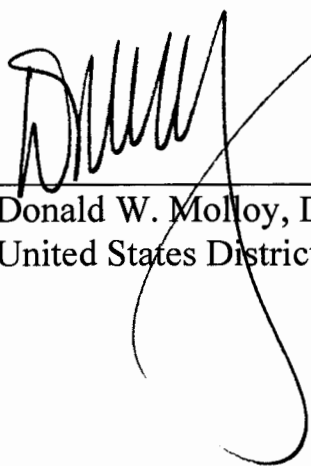
recommendation, and the Court adopts it in full.

The parties are entitled to a de novo review of the specified findings or recommendations to which they timely objected. 28 U.S.C. § 636(b)(1). But the portions of Judge Lynch's Findings and Recommendations not specifically objected to are reviewed for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

There is no clear error in Judge Lynch's Findings and Recommendation. Looman failed to serve his Second Amended Complaint on Liedle within the 120 day time period prescribed by Rule 4(m). He has not shown good cause for this failure. *See Efaw v. Williams*, 473 F.3d 1038, 1040 (9th Cir. 2007). As a result, Liedle should be dismissed without prejudice.

IT IS ORDERED that Judge Lynch's Findings and Recommendations (doc. 67) is ADOPTED IN FULL. David Liedle's motion to dismiss (doc. 64) is GRANTED. Liedle is DISMISSED WITHOUT PREJUDICE.

Dated this 4th day of January 2013.



Donald W. Molloy, District Judge
United States District Court